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HOUSE BILL 837

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO EXECUTIVE REORGANIZATION; CREATING THE STATE
PERSONNEL DIVISION IN THE DEPARTMENT OF FINANCE AND
ADMINISTRATION; TRANSFERRING THE STATE PERSONNEL OFFICE TO THE
DEPARTMENT OF FINANCE AND ADMINISTRATION; ADMINISTRATIVELY
ATTACHING THE PERSONNEL BOARD; REPEALING SECTIONS 9-17-6 AND
10-9-11 NMSA 1978 (BEING LAWS 1983, CHAPTER 301, SECTION 6 AND
LAWS 1977, CHAPTER 247, SECTION 47, AS AMENDED); MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-6-3 NMSA 1978 (being Laws 1977,
Chapter 247, Section 3, as amended) is amended to read:

"9-6-3. DEPARTMENT OF FINANCE AND ADMINISTRATION--
CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND
CREATION OF DIVISIONS.--

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underscoring material = new
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1 A. The "department of finance and administration"
2 is created. The department shall consist of those divisions
3 created by law or executive order, as modified by executive
4 order pursuant to Subsection C of this section, including but
5 not limited to:

- 6 (1) the board of finance division;
7 (2) the financial control division;
8 (3) the local government division;
9 (4) the management and contracts review
10 division; [~~and~~]
11 (5) the state budget division; and
12 (6) the state personnel division.

13 B. The secretary is empowered to organize the
14 department and the divisions thereof specified in Subsection A
15 of this section and may transfer or merge functions between
16 divisions in the interest of efficiency and economy.

17 C. The governor is empowered to merge divisions of
18 the department or to create additional divisions by executive
19 order in the interest of efficiency and economy."

20 Section 2. A new section of the Department of Finance and
21 Administration Act is enacted to read:

22 "[NEW MATERIAL] ADMINISTRATIVELY ATTACHED AGENCY.--The
23 personnel board is administratively attached to the state
24 personnel division of the department."

25 Section 3. Section 10-9-3 NMSA 1978 (being Laws 1961,
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1 Chapter 240, Section 3) is amended to read:

2 "10-9-3. DEFINITIONS.--As used in the Personnel Act:

3 A. "director" [~~means the personnel director~~] or
4 "personnel director" means the director of the division;

5 B. "division" means the state personnel division of
6 the department of finance and administration;

7 [~~B.~~] C. "board" means the personnel board;

8 [~~C.~~] D. "service" means the state personnel service
9 created by the Personnel Act and includes all positions covered
10 by the Personnel Act;

11 [~~D.~~] E. "position" means any state office, job or
12 position of employment;

13 [~~E.~~] F. "employer" means any authority having power
14 to fill positions in an agency;

15 [~~F.~~] G. "agency" means any state department,
16 bureau, division, branch or administrative group [~~which~~] that
17 is under the same employer;

18 [~~G.~~] H. "class" means a group of positions similar
19 enough in powers and responsibilities that they can be covered
20 by the same qualifications and rate of pay;

21 [~~H.~~] I. "test" means a test of the qualifications,
22 fitness and ability and includes tests that are written, oral,
23 physical or in the form of a demonstration of skill or any
24 combination thereof;

25 [~~I.~~] J. "employee" means a person in a position in

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1 the service who has completed [~~his~~] the probationary period for
2 that position; and

3 [~~J-~~] K. "probationer" means a person in a position
4 in the service who is still in the probationary period for that
5 position."

6 Section 4. Section 10-9-8 NMSA 1978 (being Laws 1961,
7 Chapter 240, Section 5, as amended) is amended to read:

8 "10-9-8. PERSONNEL BOARD--APPOINTMENT.--

9 A. The "personnel board" is created and shall be
10 composed of five members, appointed by the governor and
11 confirmed by the senate, who shall serve staggered terms of
12 five years each with one board member's term expiring each
13 year. No person shall be a member of the board or eligible for
14 appointment to the board who is an employee in the service,
15 holds political office or is an officer of a political
16 organization.

17 B. The board is administratively attached to the
18 state personnel division of the department of finance and
19 administration. The secretary of finance and administration,
20 with the approval of the board, shall appoint a director of the
21 division. This subsection shall not be construed to affect the
22 exercise of any board power or duty nor shall it be construed
23 as placing the board under the provisions of the Executive
24 Reorganization Act or the provisions of Section 9-6-5 NMSA
25 1978."

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1 Section 5. Section 10-9-10 NMSA 1978 (being Laws 1961,
2 Chapter 240, Section 7, as amended) is amended to read:

3 "10-9-10. BOARD DUTIES.--The board shall:

4 A. promulgate [~~regulations~~] rules to effectuate the
5 Personnel Act;

6 B. hear appeals and make recommendations to
7 employers;

8 C. [~~hire, with the approval of the governor, a~~
9 approve the appointment by the secretary of finance and
10 administration of the director experienced in the field of
11 personnel administration;

12 D. review budget requests prepared by the director
13 for the operation of the [~~personnel program~~] division and make
14 appropriate recommendations [~~thereon~~];

15 E. make investigations, studies and audits
16 necessary to the proper administration of the Personnel Act;

17 F. make an annual report to the governor at the end
18 of each fiscal year; and

19 [~~G. establish and maintain liaison with the general~~
20 ~~services department; and~~

21 H.] G. represent the public interest in the
22 improvement of personnel administration in the system."

23 Section 6. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
24 PROPERTY, CONTRACTS AND REFERENCES IN LAW AND RULES.--On July
25 1, 2009:

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